

**Before
Federal Communications Commission
Washington, DC 20554**

FCC 07M-38
06614

In the Matter of)	EB Docket No. 07-13
)	
DAVID L. TITUS)	FRN No. 0002074797
)	File No. EB-06-IH-5048
)	
Amateur Radio Operator and Licensee of)	
Amateur Radio Station KB7ILD)	

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ORDER

Issued: October 9, 2007

Released: October 10, 2007

On September 19, 2007, a Prehearing Conference was held on the-record. *See Order* FCC 07M-30, released August 29, 2007, and *Order* FCC 07M-31, released September 7, 2007. The purpose of the conference was to facilitate discovery and trial preparation.

Through requests for documents, interrogatories and motions to compel, utilized by the respective parties, it now can be determined that Mr. Titus received his first FCC license on or about August 14, 1989, and was convicted in 1993, at age 18, of the crime of, "communication with a minor for immoral purposes." He served two years in prison and has completed a two year probation term. He has no further penal obligations, related to that or any other crime. Mr. Titus is now registered as a "sex offender." He has no other convictions and no FCC violations.

Mr. Titus disclosed his employment from 1997 to 2006, but has refused to identify his current employer or employment out of fear or jeopardizing his position. Current employment information is relevant for discovery purposes, particularly since present reliability and rehabilitation could be case determinative. It is suggested that Bureau counsel may be able to discover facts of current employment without contacting the employer.¹ Present employment could be established by masked business documents (e.g. W-2), and a letter from a responsible official on company letter head stating the fact of employment, length of employment, nature of employment, and statement of satisfactory-services.²

For trial preparation, Mr. Titus is seeking police records concerning his criminal conduct which are in the possession of Bureau counsel. The parties also have executed an agreed

¹ If Bureau counsel find it necessary to contact his employer, the Bureau must first seek leave of the Presiding Judge with notice to Mr. Titus' counsel.

² The letter would be addressed to FCC with reference to Mr. Titus' application, but need not mention his criminal record or registration as "sex offender."

Protective Order that was submitted to and signed by the Presiding Judge, and Bureau counsel has furnished "confidential" documents to Mr. Titus' counsel, subject to the Protective Order.³

There was discussion of various procedures for possible use of expert testimony on behalf of Mr. Titus, mainly on rehabilitation. The parties were instructed to disclose witnesses, proffer testimony, set deposition dates and agree on proposed procedural dates.

Accordingly, IT IS ORDERED that:

September 26, 2007 – Police documents in Bureau's custody provided to Mr. Titus' counsel *via* fax, subject to fully executed Protective Order.⁴

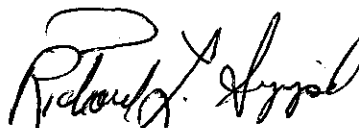
October 9, 2007 – Mr. Titus to categorically state whether or not he intends to retain an expert witness to testify on his behalf. If yes, Mr. Titus will set forth financial evidence of his resources to pay for expert testimony at hearing which data may be used to seek a protective order to use videotaped deposition of expert *in lieu* of live testimony at hearing.

October 16, 2007 – Mr. Titus to provide (1) names and addresses of non-expert witnesses and brief proffer of each witnesses expected sworn statement; (2) identity if any expert, *vita curricula*, and statement of any proposal expert's opinion, if applicable.

October 22, 2007 – Status Report(s) to be submitted which may be joint or individual.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION⁵

A handwritten signature in black ink, appearing to read "Richard L. Sippel", is written over a horizontal line.

Richard L. Sippel
Chief Administrative Law Judge

³ Local police furnished copies to Bureau counsel on condition that they be protected from unauthorized disclosure.

⁴ See *Order FCC 07M-034*, released September 25, 2007, approving consent *Protective Order*.

⁵ Courtesy copies of this *Order* e-mailed to each counsel on date of issuance.